

Notice of Allowability

Application No.

09/147,405

Examiner

S. Devi, Ph.D.

Applicant(s)

GUSS ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Applicants' after-final amendment filed 11/14/03.
2. ☒ The allowed claim(s) ~~is/are~~ 1, 25, 27 and 30, now renumbered as claims 1, 2, 3 and 4 respectively.
3. ☒ The drawings filed on 14 November 2003 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

Serial No: 09/147,405
Art Unit: 1645

ATTACHMENT TO NOTICE OF ALLOWABILITY

Applicants' Amendment

1) Acknowledgment is made of Applicants' after-final amendment filed 11/14/03 in response to the final Office Action mailed 08/12/03, which has been entered. With this, Applicants have amended the specification.

Examiner's Amendment

2) An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants, an amendment may be filed as provided by 37 C.F.R 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee. The authorization for this Examiner's amendment was provided by Mr. Joseph DeBenedictis in a telephone interview on 04 December 2003:

This application has been amended as indicated below:

The recitation 'at amino acid locations 1053-1057', added to the specification at the paragraph beginning on page 10, line 6 via the amendment filed 11/14/03, has been deleted.

Status of Claims

3) Claim 27 has been amended via the amendment filed 11/14/03.

Claims 2-24, 26 and 28-29 have been canceled.

Claim 27 has been included for examination as per *In re Ochiai*. The lack of unity/restriction set forth on claim 27 is hereby withdrawn.

Claims 1, 25, 27 and 30 are pending and are under examination.

Objection(s) Withdrawn

4) The objection to the specification made in paragraphs 9 and 10 of the Office Action mailed 08/12/03 is withdrawn in light of Applicants' amendments to the specification. It is noted that Applicants have replaced Figure 6D wherein the recitation 'LPDTG' has been discernibly highlighted in bold letters.

Rejoinder

5) Pursuant to the procedures set forth in the *Official Gazette Notice* dated March 26, 1996 (1184 O.G. 86), claim 27, directed to a process of using the patentable product(s), previously withdrawn from consideration as a result of a lack of unity/restriction requirement, is now subject to

Serial No: 09/240,675
Art Unit: 1645

being rejoined. The claim is hereby rejoined and fully examined for patentability under 37 C.F.R. 1.104.

Remarks

- 6) Claims 1, 25, 27 and 30, now renumbered as claims 1, 2, 3 and 4 respectively, are allowable over the prior art of record.
- 7) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center located in Crystal Mall 1. The transmission of such papers by facsimile must conform with the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The CM1 facsimile center receives papers 24 hours a day, seven days a week. The RightFax number for submission of before-final amendments is (703) 872-9306. The RightFax number for submission of after-final amendments is (703) 872-9307.
- 8) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.45 a.m to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

December, 2003


S. DEVI, PH.D.
PRIMARY EXAMINER